

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

DARRYL LLOYD WHITE,

Plaintiff,

vs.

GLEN WHORTON, *et al.*,

Defendants.

Case No. 2:08-cv-1302-JCM-RJJ

ORDER

Presently before the court is the case *White v. Whorton, et al.* (case number 2:08-cv-01302). This court previously dismissed plaintiff's complaint, finding that he had failed to exhaust his administrative remedies. On appeal, the Ninth Circuit vacated this court's order dismissing the complaint. *See doc. #37.* The Ninth Circuit found that this court had relied on an unverified inmate appeal report, and that more evidence, such as a declaration describing the report's import or completeness, was required to meet the defendants' burden to show nonexhaustion. *See id.* Accordingly, the Ninth Circuit remanded the matter to this court, so that the parties could have an opportunity to supply additional evidence regarding exhaustion.

Neither party has supplied any such evidence to this court. Instead, plaintiff has filed a motion for an order "ordering the defendants to answer the complaint." *See doc. #43.*

The court finds that plaintiff, proceeding pro se, is endeavoring to faithfully prosecute his case. However, rather than an answer to the complaint, what is required at this stage is supplemental briefing and additional evidence regarding plaintiff's exhaustion, or failure to exhaust, administrative remedies.

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that, consistent with the Ninth Circuit's memorandum disposition, defendants shall submit supplemental briefs and/or evidence

1 regarding plaintiff's exhaustion of administrative remedies within fifteen (15) days of the issuance of
2 this order. Plaintiff shall then have an additional fifteen (15) days to submit any countervailing evidence
3 in response to defendants' submission.

4 IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that plaintiff's motion for an
5 order requiring an answer to the complaint (doc. #43) be, and the same hereby is, DENIED as moot.

6 DATED: December 29, 2011.

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9 UNITED STATES DISTRICT JUDGE